



SAMPLE TENANT COMPLAINT LETTER

Requesting Landlord Take Steps to Reduce or Eliminate the Problem of Second-Hand Smoke

This sample letter is designed for tenants who are suffering from second-hand smoke coming into their homes from neighbouring units and want to write the landlord to take steps to resolve the problem.

If smoking is permitted in your building, residents are allowed to smoke, but they do not have an unfettered right to smoke. If a tenant's smoke is seeping into neighbouring units on a frequent and ongoing basis and substantially interfering with the occupancy of other residents, the landlord has a responsibility to remedy the situation.

It is imperative that you document the extent, frequency and impact of the smoke entering your home, as well as all communications related to the problem. Be sure to keep a copy of each letter you send to your landlord. (See the [How-to Guide for Tenants](#) for more information.)

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Describe the source and extent of the problem

STEPS

If this is your first letter, start on a positive note. Landlords get lots of complaints, so start by explaining why you like your unit or the building. Describe how often the smoke is coming in, where it comes from, and be sure to emphasize that it is more than a temporary discomfort or inconvenience. According to the law, it must be frequent, ongoing and a significant interference with your occupancy.

Identify:

- When the problem first started;
- How the smoke is entering your unit i.e. your balcony;
- Where the smoke is coming from i.e. neighbour's balcony, inside the unit;
- How often the smoke enters your unit on a daily or weekly basis. List the dates, times and frequency of occurrence;
- How much smoke is entering your unit;
- Does the smoke stay in one area or does it go to other areas of the home.

EXAMPLE

Dear [Landlord]

Re: Interference with Occupancy due to second-hand smoke

I am a tenant residing at [enter address] and have been paying the current rent of [\$ amount] per month since [anniversary date on tenancy agreement]. I like living here, and until now, I have enjoyed my tenancy. (If you don't want to move, emphasize that here). Unfortunately, I am currently faced with second-hand smoke coming into my unit from the neighbouring unit at [enter the unit number if you know where the smoke is coming from]. The smoke comes in through the closet in my daughter's bedroom, and also seems to be coming in through the gaps around the plumbing under the bathroom cupboard. It is definitely worse in the evenings and weekends when the tenant is smoking at home. It happens every single day without fail. Please see the attached log with the times and dates the smoke entered my home.

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Describe how it has impacted your health

STEPS

Identify:

- Symptoms or illnesses caused by the smoke infiltrating your home, including asthma, attacks, headaches, burning and watery eyes, sore throats, bronchitis, ear infections, heart problems, to name just a few;
- If smoke is worsening a pre-existing health problem such as asthma, allergies, heart disease, high blood pressure, fibromyalgia, or cancer;
- If you fear for the health of your newborn. Babies who are exposed to second-hand smoke have a higher risk of dying from Sudden Infant Death Syndrome (SIDS).

EXAMPLE

My daughter has asthma and I have noticed she is coughing more and needs to use her puffer at night, something she didn't previously need to do. I am enclosing a letter from our family doctor stating that my daughter should not be exposed to second-hand smoke and that she could suffer a serious asthmatic attack. I am very concerned about my daughter's health. Also, because of the extent of the smoke, I suffer from frequent headaches. I have never suffered from headaches in the past, so it is clearly linked to the smoke. When I leave my home, or when I'm at work (which is smoke-free), I don't get the headaches.

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Describe how the smoke has denied you full use of your home

STEPS

- Have parts, or all, of your home become uninhabitable at times?
- Are you forced to stay out of certain rooms because of the smoke?
- Are you unable to open your windows or balcony door?
- Are you unable to use your balcony?
- Are you unable to use your fans or heating system?
- Have you been forced to leave your home on certain days or at specific times to avoid the smoke?
- Are friends and family with health conditions unable to visit you because of the smoke? This is especially important if you are forced to apply to the Residential Tenancy Program (RTP) for a dispute resolution hearing. Past RTP decisions indicate it is not sufficient to prove that smoke is present in your home; you need to provide extensive evidence showing the amount, frequency and extent of the smoke and how it is interfering with your occupancy.

EXAMPLE

Because the smoke infiltration is significant in my daughter's bedroom, she now sleeps in my room on a cot. We keep her bedroom door closed all the time, so unfortunately we don't have use of this room anymore, despite paying for a two bedroom apartment. We also are forced to keep our windows open day and night to try to air out the unit, but now that the weather is getting colder, we won't be able to keep the windows open as often. Further, we can't afford the extra heating costs because we have to keep the windows open in the winter. We are very fearful that, with the coming cold months, the problem will worsen.

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<p>Describe what steps you have taken to resolve the problem yourself</p> <p>STEPS Past RTP dispute resolution decisions indicate that cases are generally looked upon more favourably if tenants can show that they have taken steps to address the problem themselves first.</p>	<p>EXAMPLE I have tried using duct tape to block the cracks and seal the gaps around the pipes in the bathroom, but it hasn't stopped the smoke from entering our home. As indicated above, we keep our daughter's bedroom door closed all the time, and keep our windows open day and night to try to air out the unit. We also tried to politely talk to our neighbour about the problem, but he only got mad and said that he could do whatever he wanted in his own home.</p>
<p>Collect and attach supporting evidence</p> <p>STEPS</p> <ul style="list-style-type: none"> • Did your landlord misrepresent the tenancy with assurances that the building was smoke-free? • Do you have any witnesses to verify this discussion? • Obtain written proof from neighbours, friends and family concerning the amount and frequency of smoke entering your home. The more people who can verify your complaint, the stronger your case. • Obtain a letter from your physician to verify that the smoke is making you or your family members sick, or aggravating an existing condition or illness. 	<p>EXAMPLE Please find the attached documents to support my concerns.</p>

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Provide information about the dangers of second-hand smoke (optional)

STEPS

For more information on the dangers of second-hand smoke go to:

- US Surgeon General’s Report at <http://www.surgeongeneral.gov/library/reports/>

EXAMPLE

Second-hand smoke is a serious health hazard that can lead to disease and premature death in children and non-smoking adults. There is no safe level of exposure to second-hand smoke. Even brief exposure can be harmful to people’s health.

Second-hand smoke:

- is poisonous, and exposes residents and families to over 4,000 chemicals;
- contains more than 50 chemicals that are known to cause cancer;
- contains higher concentrations of many of the toxins found in cigarette smoke;
- is a class ‘A’ cancer-causing substance, and ranked with the most deadly substances, including benzene, chromium, cadmium and arsenic.

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Ask for what you want the landlord to do

STEPS

Note: If the building is a non-smoking building, ask that the landlord enforce the non-smoking policy.

If smoking is permitted in the building, some sample options include:

- that your apartment be sealed to minimize the smoke. This may help a bit, but realistically won't permanently stop the problem;
- that your landlord talk to the tenant who smokes to negotiate a solution, like smoking outside. However, if this does not stop the smoke transfer, then request that the landlord takes steps up to and including evicting the smoking tenant;
- that you be moved to another unit in the same building, or another building owned by the landlord;
- that you'd like your landlord to consider adopting a non-smoking policy;
- that you be freed from a fixed-term lease without penalty, and your landlord should pay for your expenses.

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<p>Make your request</p> <p>STEPS Note: If the building is a non-smoking building, ask that the landlord enforce the no-smoking policy.</p> <p>If smoking is permitted in the building, some sample options include:</p> <ul style="list-style-type: none"> • that your apartment be sealed to minimize the smoke. This may help a bit, but realistically won't permanently stop the problem; • that your landlord talk to the tenant who smokes to negotiate a solution, like smoking outside. However, if this does not stop the smoke transfer, then request that the landlord take steps up to and including evicting the smoking tenant; • that you be moved to another unit in the same building, or another building owned by the landlord; • that you'd like your landlord to consider adopting a non-smoking policy; • that you be freed from a fixed-term lease without penalty, and your landlord should pay for your expenses. 	<p>EXAMPLE</p> <p>The situation has become utterly intolerable, and I need your help. Given the seriousness and urgency of the situation, I am asking that you talk to my neighbour and ask him to either stop smoking completely within his unit, or only smoke on the balcony at the north east corner.</p> <p>We can see if this would stop the smoke from entering our unit. However, if this does not solve the problem, or my neighbour does not want to try a compromise solution, then I would ask that you consider evicting him for causing interference with occupancy of my unit. I will support your actions, and if my neighbour should dispute the eviction, I will be prepared to go to the Residential Tenancies hearing.</p>
<p>Ask for a response by a specific date</p> <p>STEPS If your landlord does not respond by the date you requested, you may want to apply for a hearing at the Residential Tenancy Program or consider moving to protect your health.</p>	<p>EXAMPLE</p> <p>I would appreciate a written response to my letter within two weeks so that I can move forward on this issue knowing your position. Thanks very much for your assistance on this important matter.</p> <p>Sincerely,</p>

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Deliver the letter

STEPS

Consider using registered mail, which allows you to track delivery of your letter. The hope is that the problem can be solved amicably. However, if all else fails, you may consider filing an application for dispute resolution with the Residential Tenancy Program due to interference with occupancy of your unit, pursuant to the *Residential Tenancy Act*. This is generally seen as a last resort as it can be time consuming, divisive, and the bar is high to prove interference with occupancy due to second-hand smoke disturbances. There are no guarantees that you will win.